



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/008,056	11/13/2001	William Goggin	TOK00-028	3920

22855 7590 05/12/2003

RANDALL J. KNUTH P.C.
3510-A STELLHORN ROAD
FORT WAYNE, IN 46815-4631

EXAMINER

MAUST, TIMOTHY LEWIS

ART UNIT	PAPER NUMBER
----------	--------------

3751

DATE MAILED: 05/12/2003

3

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/008,056

Applicant(s)

GOGGIN, WILLIAM

Examiner

Timothy L. Maust

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 November 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2. 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. Formal drawings will be required when this application is issued because the numbers, lines and letters in each Figure are not uniform. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "valve" connecting said at least two members, in claim 11, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application

Art Unit: 3751

by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1, 3, 4, 15, 17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Musil et al.

In regard to claim 1, 3 and 4, the Musil reference discloses an integrated vapor recovery and fuel "delivery system" (see Fig. 1) comprising a "fuel dispenser" (see Fig. 5) and a "member" (see Fig. 2B) having a "fluid conduit" (240-242) and "vapor conduit" 245, as claimed. Further, the method of forming (i.e., extruding) the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

In regard to claims 15, 17 and 18, the method as claimed would be inherent during normal use and operation of the device.

5. Claims 1-4, 6-12 and 14-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Guertin.

In regard to claims 1, 3, 4, 7, 9, 10 and , the Guertin reference discloses an integrated vapor recovery and fuel "delivery system" (see col. 1, lines 11-14) comprising a "fuel dispenser" 10 and at least two "members" (12 and 14) having "fluid conduits" 138 and "vapor conduits" 135, as claimed.

Art Unit: 3751

In regard to claims 2 and 8, the “members” are made of “metal” (i.e., cast aluminum; see col. 3, line 9).

In regard to claims 6 and 11, see “valves” 55 and 110 in Figures 1 and 2.

In regard to claims 12 and 14, see “adapter” 32 in Figure 1.

In regard to claims 15-18, the method as claimed would be inherent during normal use and operation of the device.

6. Claims 1, 3-6, 15, 17 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Taylor.

In regard to claim 1, 3 and 4, the Taylor reference discloses an integrated vapor recovery and fuel “delivery system” (see Figs. 2 and 2A) comprising a “fuel dispenser” 30 and a “member” 90 having a “fluid conduit” and “vapor conduit” (see various configurations in Figs. 3, 3A and 4), as claimed. Further, the method of forming (i.e., extruding) the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

In regard to claim 5, see “meter” 5.

In regard to claim 6, see “valve” 70a – 70c.

In regard to claims 15, 17 and 18, the method as claimed would be inherent during normal use and operation of the device.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Musil et al. and Taylor.

The Musil et al. and Taylor references disclose the invention substantially as claimed (discussed supra), but do not disclose the "member" being constructed of metal material. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the Musil et al. and Taylor devices of a metal material (if not already), since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416

9. Claims 5 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guertin in view of Payne.

The Guertin reference discloses the invention substantially as claimed (discussed supra), but does not disclose the specifics of the fuel dispensing system including meters to meter fuel flow. However, the Payne reference discloses another fuel dispenser having meters (24, 26, 28) to measure liquid flow rates. Therefore, it is

Art Unit: 3751

well known in the art and would have been obvious for Guertin to employ meters on the dispenser (if not already) to measure fuel flow.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The Nitzberg et al., Hansen and Deters references pertain to various fuel and vapor return delivery devices, similar to Applicant's device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy L. Maust whose telephone number is (703) 308-3390. The examiner can normally be reached on Tues. - Fri. 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (703) 308-2580. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0975.



Timothy L. Maust
Primary Examiner
Art Unit 3751

tlm
May 7, 2003